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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,726	04/14/2004	David Inman	04LX-109391	6692
30764	7590	08/12/2004	EXAMINER	
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP			PATEL, TAJASH D	
333 SOUTH HOPE STREET			ART UNIT	
48TH FLOOR			PAPER NUMBER	
LOS ANGELES, CA 90071-1448			3765	

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/824,726

Applicant(s)

INMAN, DAVID

Examiner

Tejash D Patel

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/2/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Less (US 3,474,503). Less discloses a necktie holding apparatus that has a generally elongated, flat body portion (20) having first and second ends with a first engagement mechanism (31) including a button hole in an enlarged area at the first end and a second engagement hook mechanism (44) is located at the second end as shown in figures 3-6. Further, the second engagement mechanism can include a hook as shown in figures 3 and 4. Furthermore, the first engagement mechanism can also include a first hook lying in a first plane that is generally orthogonal with respect to the second engagement mechanism as shown in figures 8 and 8A. Also, it is inherent that the distance between the first and second ends of the elongated body is between 1.5 and 2.5 inches since this is the conventional distance between buttons on a shirt (22) as shown in figure 1. In addition, the elongated body is made of plastic, col. 4, lines 46-67.

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In claim 1, on lines 3 and 5, “for attaching”; in claim 8, on lines 3 and 4, “for securing” and “for engaging” and in claim 9, line 2, “for receiving” has not been given patentable weight since it does not positively limit the metes and bounds of the patent protection as desired.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Less.

With regard to claims 10-12, it would have been obvious that the necktie holding apparatus of Less can be made of any desired material which were available at the time the device was constructed or depending on the end use thereof.

Allowable Subject Matter

5. Claims 13-14 are allowable because the prior art does not teach or suggest the recitation therein including a method of securing an elongated necktie holder having a first attachment mechanism to an unbuttoned collar button in combination, a second attachment mechanism being secured to the knot of a necktie.

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (703) 306-9184. The fax phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

August 2, 2004



**TEJASH PATEL
PRIMARY EXAMINER**